

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

VICTOR LEITH,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 05-4399-CV-C-FJG
	)	
STATE OF MISSOURI HIGHWAY PATROL,	)	
et al.,	)	
	)	
Defendants.	)	

**ORDER**

Currently pending before the Court are plaintiff's Motions for Default (Docs. # 7, 11 and 12) and plaintiff's Motion for Summary Judgment (Doc. # 15).

Plaintiff has filed a Motion for Default Judgment against the Department of Motor Vehicles for failure to file an Answer or otherwise respond to his Complaint. Plaintiff has also filed two additional Motions for Default Judgment against both defendants for failure to consult with him and to submit a proposed Scheduling Order. Plaintiff has also filed a Motion for Summary Judgment regarding the fact that the defendants failed to consult with him in preparing a Scheduling Order.

On February 1, 2006, plaintiff filed a Return of Service indicating that he had served the Department of Motor Vehicles. However, the Return of Service only lists the name of a "Linda Johnson" who was served and does not indicate what her title is or whether she had any authority to accept service. Additionally, the Court notes that the State of Missouri Highway Patrol indicated in their response to plaintiff's Motion for Default Judgment that there is no separate entity known as the Department of Motor

Vehicles, rather the Missouri Department of Revenue is the state agency responsible for licensing and registration of motor vehicles in Missouri. Therefore, it would appear that plaintiff has not properly served this defendant. Therefore, the Court **DENIES** plaintiff's Motion for Default Judgment as to the Department of Motor Vehicles (Doc. # 7).

Plaintiff's other two Motions for Default and his Motion for Summary Judgment relate to the fact that defendants did not consult with plaintiff in preparing a proposed Scheduling Order (Docs. 11, 12 and 15). As the Court has now entered a Scheduling and Trial Order, the Court hereby **DENIES** plaintiff's Motions for Default and Summary Judgment.

After reviewing plaintiff's Complaint and his Memorandum of Law which he submitted, the Court is unclear as to the nature of plaintiff's Complaint and what relief plaintiff is seeking. Accordingly, plaintiff is hereby **ORDERED** to file an Amended Complaint which more clearly states the factual basis for his Complaint and the relief which he seeks. Plaintiff shall file his Amended Complaint on or before **November 28, 2006**. Plaintiff shall also serve a copy of his Amended Complaint upon the defendants in this action.

Date: November 15, 2006  
Kansas City, Missouri

**S/ FERNANDO J. GAITAN, JR.**  
Fernando J. Gaitan, Jr.  
United States District Judge